

Case Summary

Appellant-Defendant Joseph L. Williams (“Williams”) appeals his conviction for Burglary as a Class B felony.¹ We affirm.

Issue

Williams raises one issue of whether the evidence is sufficient to support his burglary conviction.

Facts and Procedural History

In the afternoon of October 26, 2005, Josh Matthews (“Matthews”) observed Williams looking through the windows of a neighbor’s home in South Bend. Williams asked Matthews if his neighbor was home. Later that evening, Matthews saw Williams kick in the door of the same home, enter, and quickly close the door. Matthews ran home and told his father to call the police.

Upon arriving and observing that the front door had been forced open, Officers Radican and Burgess proceeded to the rear of the home and saw the back door close, indicating someone was in the home. Officer Burgess went back to the front of the home, knocked and yelled “South Bend Police Department.” At that point, Williams opened a second floor window and crawled out onto the porch roof. Officer Radican could see Williams from the back of the house, and while having her pistol aimed at Williams, ordered him to raise his hands. Williams refused and started to charge off the porch roof, which suddenly gave way. After a struggle and application of a taser, Williams was arrested.

A police officer was sent to the homeowner’s place of employment. Upon returning

to her home, Maria Guillen (“Guillen”) noticed some articles inside her home had been moved, including a bicycle and a jewelry chest. Her closet where she kept her jewelry chest was in disarray as was her daughter’s bedroom.

The State charged Williams with burglary as a Class B felony. After the jury trial on April 11, 2006, Williams was found guilty as charged. The trial court sentenced Williams to twenty years imprisonment, with eight years suspended and four years of probation. Williams now appeals.

Discussion and Decision

Williams contends that there is insufficient evidence to support his conviction for burglary. The standard of review when considering the sufficiency of evidence is well settled. We will not reweigh the evidence or judge the credibility of the witnesses. Battle v. State, 818 N.E.2d 56, 58 (Ind. Ct. App. 2004). Rather, we look to the evidence most favorable to the verdict and the reasonable inferences to be drawn therefrom. Id. We will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. Id.

To convict Williams of burglary as a Class B felony under Indiana Code Section 35-43-2-1, the State was required to show that Williams: (1) broke and entered the dwelling of another; (2) with the intent to commit a felony therein. In accordance with the charging information, the State was required to prove beyond a reasonable doubt that Williams did break and enter the Guillen home with the intent to commit theft. The offense of theft is governed by Indiana Code Section 35-43-4-2(a), which provides that “[a] person who

¹ Ind. Code § 35-43-2-1.

knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class D felony.” Williams argues that the prosecution did not produce sufficient evidence to warrant a rational trier of fact to conclude that Williams entered the Guillen home with the intent to commit theft.

Williams relies on Desloover v. State, which held that there was insufficient evidence to support a conviction of burglary because, despite evidence of breaking and entering and flight, there was no evidence that Desloover “touched, disturbed or even approached valuable property.” 734 N.E.2d 633, 635 (Ind. Ct. App. 2000), trans. denied.

Our Supreme Court recently reemphasized that evidence of breaking and entering and evidence of flight are not probative unless tied to some other evidence that is strongly corroborative of the actor’s intent to commit a specific felony. Freshwater v. State, 853 N.E.2d 941, 943 (Ind. 2006). The evidence does not need to be insurmountable, but it must provide a “solid basis to support a reasonable inference” that the defendant intended to commit the underlying, specifically charged felony. Id. (quoting Gilliam v. State, 508 N.E.2d 1270, 1271 (1987), reh’g denied). Because intent is a mental state of the actor, the trier of fact must resort to reasonable inferences based upon examination of the surrounding circumstances to determine intent. Markoff v. State, 553 N.E.2d 194, 195 (Ind. Ct. App. 1990).

Here, there is evidence beyond that of breaking and entering and flight. Dissimilar to Desloover, there was evidence that Williams touched and disturbed valuable property. Upon

being escorted to her home after the break-in, Guillen noted that her daughter's bedroom and her bedroom closet were in disarray, her jewelry box normally stored in her bedroom closet was set atop the television, and a bicycle had been moved from the living room onto a bed in the downstairs bedroom that leads into the garage. The jury could reasonably infer from this evidence that Williams broke and entered the Guillen dwelling with the intent to commit theft. Therefore, we conclude there was sufficient evidence supporting Williams' conviction of burglary.

Affirmed.

VAIDIK, J., and BARNES, J., concur.